

ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE
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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:) No. R-13-0015
)
) COMMENT OF ARIZONA
Petition to Amend Rule 12.9, Arizona) ATTORNEYS FOR CRIMINAL
Rules of Criminal Procedure) JUSTICE REGARDING PETITION
) TO AMEND RULE 12.9, ARIZONA
) RULES OF CRIMINAL
) PROCEDURE
)
)

¶1 Pursuant to Rule 28 of the Arizona Rules of Supreme Court, Arizona Attorneys for Criminal Justice (“AACJ”) hereby submits the following comment to the above-referenced petition. AACJ is a not-for-profit membership organization representing four hundred criminal defense lawyers licensed to practice in the State of Arizona, as well as law students and other associated professionals, who are dedicated to protecting the rights of the accused in the courts and in the legislature.

¶2 AACJ is aware of cases where trial judges have granted motions pursuant to Rule 12.9 but inadvertently failed to order the State to seek a remand by a particular date. In such cases defendants not only experience uncertainty but

also often languish in custody if the prosecution delays seeking a new determination of probable cause. As such, AACJ supports the petition and recommends adding a time limit for remanding a case for a new determination of probable cause by creating new Rule 12.9(c), as it. The proposed new Rule 12.9(c) reads:

c. Relief. If a motion for a new finding of probable cause is granted under this rule, the State may proceed with the prosecution of the case pursuant to Rule 2, Rules of Criminal Procedure, or by resubmission to the same or a [sic] another grand jury. Unless a complaint is filed or a grand jury consideration is commenced within fifteen days after entry of the order granting the motion under this rule, the case shall be dismissed without prejudice.

This language is essentially identical to Rule 12.28(c), and since Rules 12.9 and 12.28 serve very similar purposes, it is proper that the relief in subsection (c) of each rule be the same as well. AACJ recommends granting the petition and adopting the language suggested by the petitioner, after correcting the minor typographical error “a another.”

¶3 For these reasons, AACJ respectfully requests this Court grant the petition to amend Rule 12.9.

DATED: May 21, 2013.

ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE

By /s/
David J. Euchner

This comment e-filed this date with:

Supreme Court of Arizona
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Phoenix, AZ 85007-3329

Copies of this Comment
Mailed this date to:

Hon. Joseph C. Welty
Criminal Department Presiding Judge
Superior Court of Arizona, Maricopa County
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